

UTAH EMPLOYMENT ACT

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Glenn A. Donnelson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions for Labor in General and other provisions related to the Utah Employment Act.

Highlighted Provisions:

This bill:

- ▶ enacts the Utah Employment Act including:
 - defining terms;
 - addressing interpretation of the act;
 - providing for severability;
 - requiring employers to participate in the federal basic verification pilot program;
 - requiring recordkeeping; and
 - providing private right of action; and

▶ requires a state public procurement unit to condition procurement agreements on receiving documentation that an employee has elected to participate in the federal basic verification pilot program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



ENACTS:

34-44-101, Utah Code Annotated 1953

34-44-102, Utah Code Annotated 1953

34-44-103, Utah Code Annotated 1953

34-44-104, Utah Code Annotated 1953

34-44-201, Utah Code Annotated 1953

34-44-202, Utah Code Annotated 1953

63-56-426, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **34-44-101** is enacted to read:

CHAPTER 44. UTAH EMPLOYMENT ACT

Part 1. General Provisions

34-44-101. Title.

This chapter is known as the "Utah Employment Act."

Section 2. Section **34-44-102** is enacted to read:

34-44-102. Definitions.

As used in this chapter:

(1) "Basic verification pilot program" means the electronic verification of work authorization program:

(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, P.L. 104-128, Division C, Title IV, Subtitle A, Section 403(a), 8 U.S.C. 1324a (1996) (as amended 2002, 2003); and

(b) operated by the United States Department of Homeland Security.

(2) "Discharge" means the unconditional termination of employment of an employee.

(3) "Employee" means an individual performing or applying for work or service of any kind or character for hire.

(4) "Employer" means a person employing or seeking to employ any individual for hire.

(5) "Employment" means:

(a) the act of employing; or

(b) the state of being employed, engaged, or hired.

(6) "State" means any of the following of the state:

(a) a department;

(b) a division;

(c) a commission;

(d) a council;

(e) a board;

(f) a bureau;

(g) a committee;

(h) an institution;

(i) a government corporation; or

(j) other establishment, official, or employee.

Section 3. Section **34-44-103** is enacted to read:

34-44-103. Interpretation of chapter.

This chapter shall be interpreted so as to be fully consistent with:

(1) federal immigration and labor laws; and

(2) the state's labor laws.

Section 4. Section **34-44-104** is enacted to read:

34-44-104. Severability.

If any provision of this chapter or the application of a provision to any person or circumstance is held invalid:

(1) the invalidity may not affect other provisions or applications of this chapter that may be given effect without the invalid provision or application; or

(2) the provisions of this chapter are severable.

Section 5. Section **34-44-201** is enacted to read:

Part 2. Participation in Basic Verification Pilot Program

34-44-201. Participation in basic verification pilot program required for employer.

(1) An employer employing an employee in this state, including the state or a political subdivision of the state, shall participate in the basic verification pilot program to verify the employment eligibility of any employee that the employer hires on or after the day on which

the employer executes the documentation required under the basic verification pilot program to elect to participate in the basic verification pilot program.

(2) An employer shall maintain a current copy of the documentation described in Subsection (1).

Section 6. Section **34-44-202** is enacted to read:

34-44-202. Liability -- Discharge of certain employees.

(1) An employer in this state may not discharge an employee of the employer if:

(a) the employee is:

(i) a citizen of the United States;

(ii) a permanent resident alien employee; or

(iii) otherwise eligible under federal law to be employed in the United States; and

(b) on the day on which the employee is discharged the employer is in violation of

Section 34-44-201.

(2) (a) An employee discharged in violation of Subsection (1) may bring a civil action against the employer in any court of competent jurisdiction.

(b) In an action brought under this Subsection (2), if the employer is found in violation of Subsection (1), the employer is liable to the employee discharged in violation of Subsection (1) for:

(i) three times the actual damages sustained by the employee including:

(A) lost wages; and

(B) costs associated with locating and procuring new employment;

(ii) costs of litigation; and

(iii) reasonable attorney's fees.

Section 7. Section **63-56-426** is enacted to read:

63-56-426. Participation in basic verification pilot program.

A state public procurement unit shall require as a condition of any agreement to procure supplies, services, and construction needed by the state that an employer of an employee submit with that employer's response to a bid a current copy of the documentation required by the basic verification pilot program, as defined in Section 34-44-102, the employer obtained to elect to participate in the basic verification pilot program.

Legislative Review Note

as of 2-2-06 2:54 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0179

Utah Employment Act

06-Feb-06

11:18 AM

State Impact

State and local government administrative costs associated with implementing this bill can be handled within existing budgets. The bill may reduce the number of bidders for government contracts.

Individual and Business Impact

Implementation can be handled within existing budgets.

Office of the Legislative Fiscal Analyst